

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No.: 3:14-CV-00034-FDW-DSC**

SANDHURST-COLLINS, LLC,

Plaintiff,

vs.

**TRAVELERS CASUALTY INSURANCE
COMPANY OF AMERICA,**

Defendant.

ORDER

THIS MATTER is before the Court upon Defendant Travelers Casualty Insurance Company of America's ("Defendant") Partial Motion to Dismiss, (Doc. No. 8), Plaintiff Sandhurst-Collins, LLC's, ("Plaintiff") Complaint, (Doc. No. 1), pursuant to Federal Rule of Civil Procedure 12(b)(6). Plaintiff responded in a timely manner, (Doc. No. 12), and Defendant timely filed a reply to Plaintiff's Response, (Doc. No. 16). Defendant argues that claim one alleging a breach of a duty of care in adjusting Plaintiff's insurance claim, claim two alleging an engagement in false, misleading, or deceptive acts or practices in violation of North Carolina General Statutes §§ 58-63-15(11) and 75-1.1, claim three alleging a breach of fiduciary duty, and claim five alleging a breach of a common law duty of good faith and fair dealing each fail to state a claim upon which relief can be granted. For the reasons stated below, Defendant's Partial Motion to Dismiss is GRANTED.

As a threshold matter, Plaintiff asserts it will amend its Complaint to correct any deficiencies after the completion of discovery. However, the Court notes that pursuant to Fed. R. Civ. P. 15 the period in which Plaintiff may amend its Complaint by right has expired. Further,

the Court will not grant leave for Plaintiff to amend its complaint after discovery as this defeats the purpose of discovery.

The Plaintiff concedes in his response, (Doc. No. 12), that each cause of action is either not cognizable under North Carolina law or is insufficiently pleaded. Upon review, the Court agrees. Accordingly, Defendant's Partial Motion to Dismiss, (Doc. No. 8), is hereby GRANTED. Claim one alleging a breach of a duty of care, claim two alleging false, misleading, or deceptive acts or practices, claim three alleging a breach of fiduciary duty, and claim five alleging a breach of a common law duty of good faith and fair dealing are therefore DISMISSED.

IT IS SO ORDERED.

Signed: April 16, 2014

A handwritten signature in black ink, appearing to read "Frank D. Whitney", is written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

